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in a Federal court seeking relief other than money damages and stating a claim based on the assertion of unlawful official action by an agency or by an officer or employee of the agency.

The amendment to section 702 would not affect other limitations on judicial review—such as that plaintiff lacks standing to challenge the agency action, that the action is not ripe for review, or that the action is committed to unreviewable agency discretion. Nor would the amendment confer authority to grant relief where another statute provides a form of relief which is expressly or impliedly exclusive. Section 1 would also amend section 703 of title 5, United States Code, to permit the plaintiff in actions for nonstatutory review of administrative action to name the United States, the agency, or the appropriate officer as defendant. This is intended to eliminate technical problems arising from a plaintiff's failure to name the proper Government officer as a defendant.

Another problem which arises in some actions for judicial review is that the claimed wrongful action affects a right which cannot be valued in dollars and cents. To meet this problem, section 2 of the bill would amend section 1331(a) of title 28, the general "Federal question" provision which now requires that there be at least \$10,000 in controversy by adding language which removes the requirement of fixing a sum or value as to actions brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity. Finally, S. 800 would remedy certain technical problems in the law concerning the naming of the United States, its agencies, or employees as parties defendant in actions challenging Federal administrative action and in joining appropriate non-Federal defendants where such joinder would be proper under applicable venue provisions were the United States not a party.

I would also like to say to my good friend, the gentleman from Ohio, who is a member of the subcommittee and the Committee on the Judiciary which considered this, that this legislation has broad support of the Department of Justice, the Judicial Conference, bar associations across the land, and we know of no person who opposes the bill and no organized group which is opposed to it.

We hope the bill can be considered and passed.

(Mr. FLOWERS asked and was given permission to revise and extend his remarks.)

Mr. KINDNESS. Mr. Speaker, further reserving the right to object, I point out to the gentleman from Alabama (Mr. Flowers) and the Members of the House that there is only one area of concern about this bill that I have heard expressed, and that is as to whether it might conceivably add to the burden of litigation in the Federal court system.

It appears from what information is available to the subcommittee that that is a very minimal factor.

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Alabama.

Mr. FLOWERS. I thank the gentleman for yielding.

Mr. Speaker, I would agree with the gentleman. I would say that if there is any enlargement whatsoever of the Federal court activities or jurisdiction by this bill, it would be at the expense of the bureaucracy. It would be to the benefit of the average citizen who is aggrieved by agency action. This does not create any new standing or anything of that nature. There has to be an aggrieved party, one, who is aggrieved by official agency action. I do not think it really enlarges the Federal court.

Mr. KINDNESS. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Speaker, can the gentleman assure us there is no way the Senate can tack anything more onto this?

Mr. FLOWERS. Mr. Speaker, if the gentleman will yield, I can assure the gentleman absolutely.

Mr. ROUSSELOT. If the gentleman from Ohio will yield further, the gentleman from Alabama will assure us he will make sure that nothing is tacked onto this by the Senate?

Mr. FLOWERS. If the gentleman will yield, I certainly will.

Mr. KINDNESS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 800

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 702 and 703 of title 5, United States Code, are amended to read as follows:*

"§ 702. Right of review

"A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. An action in a court of the United States seeking relief other than money damages and stating a claim that an agency or an officer or employee thereof acted or failed to act in an official capacity or under color of legal authority shall not be dismissed nor relief therein be denied on the ground that it is against the United States or that the United States is an indispensable party. The United States may be named as a defendant in any such action, and a judgment or decree may be entered against the United States, provided, that any mandatory or injunctive decree shall specify the Federal officer or officers (by name or by title), and their successors in office; personally responsible for compliance. Nothing herein (1) affects other limitations on judicial review or the power or duty of the court to dismiss any action or deny relief on any other appropriate legal or equitable ground; or (2) confers authority to grant relief if any other statute that grants consent to suit expressly or impliedly forbids the relief which is sought.

"§ 703. Form and venue of proceeding

"The form of proceeding for judicial review is the special statutory review proceeding relevant to the subject matter in a court specified by statute or, in the absence or

legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction in habeas corpus, in a court of competent jurisdiction. If no special statutory review proceeding is applicable, the action for judicial review may be brought against the United States, the agency by its official title, or the appropriate officer. Except to the extent that prior, adequate, and exclusive opportunity for judicial review is provided by law, agency action is subject to judicial review in civil or criminal proceedings for judicial enforcement."

Sec. 2. Section 1331(a) of title 28, United States Code, is amended by striking the final period and inserting a comma and adding thereafter the following: "except that no such sum or value shall be required in any such action brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity".

Sec. 3. The first paragraph of section 1331(e) of title 28, United States Code, is amended to read as follows:

"(e) A civil action in which a defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, or the United States, may, except as otherwise provided by law, be brought in any judicial district in which (1) a defendant in the action resides, or (2) the cause of action accrued, or (3) any real property involved in the action is situated, or (4) the plaintiff resides in or real property is involved in the action. Additional persons may be joined as parties to any such action in accordance with the Federal Rules of Civil Procedure and with such other venue requirements as would be applicable if the United States or one of its officers, employees, or agencies were now party."

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REQUEST FOR CONSIDERATION OF SENATE AMENDMENTS ON H.R. 14360, AMENDING THE JOHN F. KENNEDY CENTER ACT

Mr. GINN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 14360) to amend the John F. Kennedy Center Act to authorize funds for repair, reconstruction, and for other purposes, with Senate amendments thereto, agree to Senate amendment No. 1, disagree to Senate amendments Nos. 2, 3, and 4, and agree to Senate amendment No. 5, with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 6, strike out all after "sentence;" down to and including "Board," on line 8, and insert: "Trustees of the Kennedy Center and their agents shall be immune from suit to the same extent as are Federal officials for discretionary actions undertaken within the scope of their authority."

Page 2, line 2, strike out "Board" and insert: "Secretary of the Interior, acting through the National Park Service."

Page 2, line 2, strike out "the".

Page 2, line 4, after "Arts" insert: "necessary to correct water leaks on the roof, the terraces, and the East Plaza Drive".

Page 2, strike out all after line 4 over to and including line 4 on page 3.

The SPEAKER. Is there objection to the request of the gentleman from

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October 1, 1976

feel that many steps, in addition to the ones embodied in this resolution, must be taken if the black lung applicants are to be treated fairly and expeditiously.

Mr. Speaker, I wonder if the gentleman has in mind any additional steps that could be taken to hire additional personnel, because there is not a single Member of Congress who has not been plagued with requests from constituents who have been held up by the slow processing of the Department of Labor.

Mr. ERLENBORN. I would be happy to answer the gentleman. This will help to break this log jam, and I am certain that the gentleman from Pennsylvania and I will do all that we can to see that additional funds are made available to find qualified persons to hear these cases and expedite the hearings, because that should be done.

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Speaker, I want the Members to hear this because it is very important to all of us. When this bill passed originally, I promised the House that the gentleman from Illinois (Mr. ERLENBORN) and myself would try to recommend legislation to put the burden onto the industry at that point in time if it was feasible to do so. This jungle of backlog cases on the books is holding us from that purpose, and we hope that this will expedite that situation. If not, we will come in with more legislation.

Mr. CARNEY. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Ohio.

Mr. CARNEY. Mr. Speaker, I want to commend the gentleman from Pennsylvania (Mr. DENT) and the ranking minority member, the gentleman from Illinois (Mr. ERLENBORN), for the outstanding work they have done on this problem.

My district is on the edge of a coal mining area, where many of the retired miners moved to be with their families. Therefore, we have a lot of black lung cases and we have had a hard time adjudicating these cases, and we do have a backlog now.

We complained to the Department of Labor, and they claimed that they have not sufficient staff. So, I commend both gentlemen and hope that this will alleviate the problem. Congratulations.

Mr. SKUBITZ. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Speaker, I have had the same experience as has the gentleman from West Virginia. We go down to the Labor Department. We visit with them. They have cases before them that have been pending for 6 months to a year and a half. We contact them, and they pull the case out from the bottom of the pile and write a letter to our constituents and say, "We need more medical information," even though the information has been on file for a year and a half.

Mr. ERLENBORN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Joint resolution as follows:

H.J. RES. 1118

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That qualified individuals appointed by the Secretary of Labor may hear and determine claims for benefits under part C of title IV of the Federal Coal Mine Health and Safety Act of 1969 and under section 415 of such Act. For purposes of this Joint Resolution, the term "qualified individual" means such an individual, regardless of whether that individual is a hearing examiner appointed under section 3105 of title 5, United States Code. Nothing in this Joint Resolution shall be deemed to imply that there is or is not in effect any authority for such individuals to hear and determine such claims under any provision of law other than this Joint Resolution.*

Mr. DENT. Mr. Speaker, a curious situation has developed in the administration of the black lung program.

The 1972 amendments adopted procedures of the Longshoremen and Harbor Workers' Compensation Act for processing black lung claims. Subsequently, we amended the Longshoremen's Act to require its procedures to conform to the Administrative Procedure Act.

As a result of a disagreement between two Departments of the executive branch, the Secretary of Labor has been assigning hearing officers to hear black lung cases. The Labor Department's Benefits Review Board has decided that these cases must be heard by administrative law judges, not hearing officers. The Civil Service Commission disagrees with the Benefits Review Board's interpretation, and will not provide the Labor Department with ALJ's it needs to hear these cases.

Due to this conflict, no black lung cases were heard from March 1976 through August. At that time the Department of Labor began to hear cases again even though such hearings faced potential future challenge in the courts.

The people who are being hurt while the courts decide who should be hearing these black lung cases are the coal miners and their survivors. While back benefits would be awarded to the time these people filed, so, that the claimant would not lose money, that is little consolation to people who need the money immediately.

We thus offer House Joint Resolution 1118. This resolution has the similar intent as the one passed by the Senate, Senate Joint Resolution 213. The purpose is to clear up the disgraceful backlog that is impeding black lung claimants from having hearings.

This resolution will provide clear authority for hearing officers appointed by the Secretary of Labor to conduct hearings involving claims for black lung benefits filed under section 415 and part C of title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended. This resolution will allow the Department of Labor to clear up a backlog of over 900 cases—a backlog that is increasing by 150 a month, and hear any

cases that may come in the future. It leaves previously heard cases unaffected.

The resolution leaves it up to the courts, the Civil Service Commission, or, if necessary and appropriate, the Congress to clear up these underlying issues at some future date. All we are doing is taking a step toward aiding those miners and widows whose claims are pending while the courts are deciding the substantive issues.

Let us approve this version so that these needy claimants, who have been halted in the adjudicative process through no fault of their own, can have their day in court. Remember we are not giving anyone benefits; all we are doing is allowing their case to be heard.

The last sentence of this resolution makes clear that the intent here is not to affect the status of hearing officers with respect to any type of case other than those under section 415 and part C of title IV of the Federal Coal Mine Health and Safety Act; but it provides clear authority for hearing officers to hear black lung claims not yet heard.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ERLENBORN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 1118.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDING UNITED STATES CODE WITH RESPECT TO PROCEDURE FOR JUDICIAL REVIEW OF CERTAIN ADMINISTRATIVE AGENCY ACTION

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 800) to amend chapter 7, title 5, United States Code, with respect to procedure for judicial review of certain administrative agency action, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. KINDNESS. Mr. Speaker, reserving the right to object—and I will not object—but I will address to the gentleman from Alabama a question concerning the content of S. 800. Would he explain that to the House?

Mr. FLOWERS. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Speaker, the purpose of this bill is best summarized by stating that it would remove three technical barriers to the consideration on the merits of citizens' complaints against the Federal Government, its agencies or employees. The amendment made to section 702 of title 5 would eliminate the defense of sovereign immunity as to any action